



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

INSURANCE CODE - INS

DIVISION 3. THE INSURANCE COMMISSIONER [12900 - 13813] (*Division 3 enacted by Stats. 1935, Ch. 145.)*

CHAPTER 2. Powers and Duties [12919 - 13555] (*Chapter 2 enacted by Stats. 1935, Ch. 145.)*

ARTICLE 1. Generally [12919 - 12938] (*Article 1 enacted by Stats. 1935, Ch. 145.)*

12919. Communications to the commissioner or any person in the commissioner's office in respect to any fact concerning the holder of, or applicant for, any certificate or license issued under this code are made to the commissioner in official confidence within the meaning of Sections 1040 and 1041 of the Evidence Code. Liability shall not exist and no action or proceeding shall lie for or on account of any communication or the making thereof, but the existence of the communication shall not be deemed to dispense with or nullify any requirement of notice, hearing, or production of evidence before the commissioner as otherwise required by law.

(Amended by Stats. 2021, Ch. 50, Sec. 244. (AB 378) Effective January 1, 2022.)

12920. The commissioner shall determine the sufficiency and validity of all securities required to be given by persons engaged, or to be engaged, in insurance business, and shall cause such security to be supplemented or renewed in case of the insufficiency or invalidity thereof.

(Enacted by Stats. 1935, Ch. 145.)

12920.5. In addition to and independent of any and all other proper causes for refusal by the commissioner to approve or accept any bond filed or presented for filing with the commissioner under any provision of this code or other laws, the commissioner shall decline to approve, accept, or file any bond, if, in the commissioner's opinion, the principal and the surety are affiliated in any manner whereby insolvency of the one party would affect the solvency of the other or whereby it is made uncertain whether or not that result might occur.

(Amended by Stats. 2021, Ch. 50, Sec. 245. (AB 378) Effective January 1, 2022.)

12921. (a) The commissioner shall perform all duties imposed upon the commissioner by the provisions of this code and other laws regulating the business of insurance in this state, and shall enforce the execution of those provisions and laws.

(b) In an administrative action to enforce the provisions of this code and other laws regulating the business of insurance in this state, any settlement is subject to all of the following:

(1) The commissioner may delegate the power to negotiate the terms and conditions of a settlement to designated deputy commissioners. The commissioner may delegate the power to approve a settlement, unless the settlement involves any of the following:

(A) An insurer.

(B) A managing general agent or production agent that manages the business of an insurer.

(C) A title company.

(D) A home protection company.

(E) An insurance adjuster whose claims practices are at issue.

(F) An insurance agent or broker, or an applicant for an insurance agent or broker license, who has allegedly engaged in theft, fraud, or the misappropriation of premium or other funds in an amount that exceeds fifty thousand dollars (\$50,000).

(2) Unless specifically provided for in a provision of this code, the commissioner may not agree to any of the following:

(A) That the respondent contribute, deposit, or transfer any moneys or other resources to a nonprofit entity.

(B) That a respondent contribute, deposit, or transfer any fine, penalty, assessment, cost, or fee except to the commissioner for deposit in the appropriate state fund pursuant to Section 12975.7.

(C) That the commissioner may or shall direct the transfer, distribution, or payment to another person or entity of any fine, penalty, assessment, cost, or fee.

(D) The use of the commissioner's name, likeness, or voice in any printed material or audio or visual medium, either for general distribution or for distribution to specific recipients.

(3) The commissioner may only agree to payment to those persons or entities to whom payment may be due because of the respondent's violation of a provision of this code or other law regulating the business of insurance in this state.

(4) A settlement may only include the sanctions provided by this code or other laws regulating the business of insurance in this state, except that the settlement may include attorney's fees, costs of the department in bringing the enforcement action, and future costs of the department to ensure compliance with the settlement agreement.

(c) Notwithstanding any other law, the commissioner may accept documents submitted for filing or approval, process transactions, and maintain records in electronic form or as paper documents, and may adopt regulations to further this subdivision.

(Amended by Stats. 2021, Ch. 50, Sec. 246. (AB 378) Effective January 1, 2022.)

12921.1. (a) The commissioner shall establish a program on or before July 1, 1991, to investigate complaints and respond to inquiries received pursuant to Section 12921.3, to comply with Section 12921.4, and, when warranted, to bring enforcement actions against insurers or production agencies, as those terms are defined in subdivision (a) of Section 1748.5. The program shall include, but not be limited to, the following:

(1) A toll-free telephone number published in telephone books throughout the state, dedicated to the handling of complaints and inquiries.

(2) Public service announcements to inform consumers of the toll-free telephone number and how to register a complaint or make an inquiry to the department.

(3) A simple, standardized complaint form designed to assure that complaints will be properly registered and tracked.

(4) Retention of records on complaints for at least three years after the complaint has been closed.

(5) Guidelines to disseminate complaint and enforcement information on individual insurers to the public, that shall include, but not be limited to, the following:

(A) License status.

(B) Number and type of complaints closed within the last full calendar year, with analogous statistics from the prior two years for comparison. The proportion of those complaints determined by the department to require that corrective action be taken against the insurer, or leading to insurer compromise, or other remedy for the complainant, as compared to those that are found to be without merit. This information shall be disseminated in a fashion that will facilitate identification of meritless complaints and discourage their consideration by consumers and others interested in the records of insurers.

(C) Number and type of violations found, by reference to the line of insurance and the law violated. For the purposes of this subparagraph, the department shall separately report this information for health insurers.

(D) Number and type of enforcement actions taken.

(E) Ratio of complaints received to total policies in force, or premium dollars paid in a given line, or both. Private passenger automobile insurance ratios shall be calculated as the number of complaints received to total car years earned in the period studied.

(F) Any other information the department deems is appropriate public information regarding the complaint record of the insurer that will assist the public in selecting an insurer. However, nothing in this section shall be construed to permit disclosure of

information or documents in the possession of the department to the extent that the information and those documents are protected from disclosure under any other provision of law.

(6) Procedures and average processing times for each step of complaint mediation, investigation, and enforcement. These procedures shall be consistent with those in Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 for complaints within the purview of that article, consistent with those in Article 7 (commencing with Section 1858) of Chapter 9 of Part 2 of Division 1 for complaints within the purview of that article, and consistent with any other provisions of law requiring certain procedures to be followed by the department in investigating or prosecuting complaints against insurers or production agencies.

(7) A list of criteria to determine which violations should be pursued through enforcement action, and enforcement guidelines that set forth appropriate penalties for violations based on the nature, severity, and frequency of the violations.

(8) Referral of complaints not within the department's jurisdiction to appropriate public and private agencies.

(9) Complaint handling goals that can be tested against surveys carried out pursuant to subdivision (a) of Section 12921.4.

(10) Inclusion in its annual report to the Governor, required by Section 12922, detailed information regarding the program required by this section, that shall include, but not be limited to: a description of the operation of the complaint handling process, listing civil, criminal, and administrative actions taken pursuant to complaints received; the percentage of the department's personnel years devoted to the handling and resolution of complaints; and suggestions for legislation to improve the complaint handling apparatus and to increase the amount of enforcement action undertaken by the department pursuant to complaints if further enforcement is deemed necessary to ensure proper compliance by insurers or production agencies with the law.

(b) The commissioner shall promulgate a regulation that sets forth the criteria that the department shall apply to determine if a complaint is deemed to be justified prior to the public release of a complaint against a specifically named insurer or production agency.

(c) The commissioner shall provide to the insurer or production agency a description of any complaint against the insurer or production agency that the commissioner has received and has deemed to be justified at least 30 days prior to public release of a report summarizing the information required by this section. This description shall include all of the following:

(1) The name of the complainant.

(2) The date the complaint was filed.

(3) A succinct description of the facts of the complaint.

(4) A statement of the department's rationale for determining that the complaint was justified that applies the department's criteria to the facts of the complaint.

(d) An insurer shall provide to the department the name, mailing address, telephone number, and facsimile number of a person whom the insurer designates as the recipient of all notices, correspondence, and other contacts from the department concerning complaints described in this section. The insurer may change the designation at any time by providing written notice to the Consumer Services Division of the department.

(e) The commissioner may establish an Internet-accessible complaints response system to distribute and receive complaint information as described in subdivisions (a) and (c). Insurers shall be required to submit and receive complaint information, including, but not limited to, requested claim files, underwriting files, correspondence, and other supporting documents, using any system established by the commissioner pursuant to this subdivision.

(f) For the purposes of this section, notices, correspondence, and other contacts with the designated person shall be deemed contact with the insurer.

(Amended by Stats. 2016, Ch. 304, Sec. 20. (AB 2884) Effective January 1, 2017.)

12921.15. (a) On or before July 1, 1999, the commissioner shall prepare a written report, to be made available by the department to interested individuals upon written request, that details complaint and enforcement information on individual insurers in accordance with guidelines established under paragraph (5) of subdivision (a) of Section 12921.1. The report shall be made available by mail through the department's consumer toll-free telephone number and through the department's Internet website and transmitted via electronic mail if the individual has the ability to obtain the report in this manner. No complaint information shall be included in the report required by this section that has not been provided to the insurer in accordance with subdivision (c) of Section 12921.1.

(b) The commissioner may also, if deemed appropriate, publish the record of complaints against the production agency that have been determined by the department to be justified and that will assist the public in selecting a production agency. No complaint data shall be published that has not been provided to the production agency in accordance with subdivision (c) of Section 12921.1.

(Amended by Stats. 2005, Ch. 312, Sec. 10. Effective January 1, 2006.)

12921.2. All public records of the department and the commissioner subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code shall be available for inspection and copying pursuant to those provisions at the offices of the department in the City of Oakland, the City of Los Angeles, and the City of Sacramento. Adequate copy facilities for this purpose shall be made available. Notwithstanding any other law, a person requesting copies of these records shall receive the copies from employees of the department and the fee charged for the copies shall not exceed the actual cost of producing the copies.

(Amended by Stats. 2022, Ch. 28, Sec. 119. (SB 1380) Effective January 1, 2023.)

12921.3. (a) The commissioner, in person or through employees of the department, shall receive complaints and inquiries, investigate complaints, prosecute insurers or production agencies when appropriate and according to guidelines determined pursuant to Section 12921.1, and respond to complaints and inquiries by members of the public concerning the handling of insurance claims, including, but not limited to, violations of Article 10 (commencing with Section 1861) of Chapter 9 of Part 2 of Division 1, by insurers or production agencies, or alleged misconduct by insurers or production agencies.

(b) The commissioner shall not decline to investigate complaints for any of the following reasons:

(1) The insured is represented by an attorney in a dispute with an insurer, or is in mediation or arbitration.

(2) The insured has a civil action against an insurer.

(3) The complaint is from an attorney, if the complaint is based upon evidence or reasonable beliefs about violations of law known to an attorney because of a civil action.

(c) The commissioner may defer the investigation until the finality of a dispute, mediation, arbitration, or civil action involving the claim is known.

(d) The commissioner, as he or she deems appropriate, and pursuant to Section 12921.1, shall provide for the education of, and dissemination of information to, members of the general public or licensees of the department concerning insurance matters.

(Amended by Stats. 2005, Ch. 723, Sec. 9.5. Effective January 1, 2006.)

12921.4. (a) The commissioner shall, upon receipt of a written complaint with respect to the handling of an insurance claim or other obligation under a policy by an insurer or production agency, or alleged misconduct by an insurer or production agency, notify the complainant of the receipt of the complaint within 10 working days of receipt. Thereafter, the commissioner shall notify the complainant of the final action taken on that complaint within 30 days of the final action.

The department shall include, with each notification of final action, or, at a minimum, with a number of randomly selected notifications of final action sufficient to assure the validity of results, a complaint handling evaluation form. This form shall clearly and concisely seek an evaluation of the department's performance in handling the complainant's grievance. The areas of evaluation shall include, but not be limited to: whether the complaint was handled in a fair and reasonable manner, evaluated thoroughly and without bias; the time required for resolution of the complaint; whether the complaint was referred and, if so, whether it was referred within a satisfactory time; whether the staff involved in handling the complaint demonstrated an adequate knowledge of the issues involved in the complaint; whether the complainant was satisfied with the result of the department's intervention; and whether the complainant would recommend the department's complaint handling services to others.

The commissioner shall, if deemed appropriate, notify insurers or production agencies against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the insurer in order to mediate the complaint. This section shall not be construed to give the commissioner power to adjudicate claims.

(b) The commissioner shall ascertain patterns of complaints by insurer, geographic area, insurance line, type of violation, and any other valid basis the commissioner may deem appropriate for further investigation, and periodically evaluate the complaint patterns to determine additional audit, investigative, or enforcement actions which may be taken by the commissioner, and report on all actions taken with respect to those patterns of complaints in the commissioner's annual report to the Governor pursuant to Section 12922, and to the public. For the purposes of this subdivision, complaints mean those written complaints received by the commissioner under subdivision (a), and written complaints received by the commissioner from any other sources, alleging misconduct or unlawful acts by insurers or production agencies.

(Amended by Stats. 2021, Ch. 50, Sec. 247. (AB 378) Effective January 1, 2022.)

12921.5. The commissioner may in person or through employees of the division meet with persons, organizations and associations interested in insurance for the purpose of securing cooperation in the enforcement of the insurance laws of this State and may disseminate information concerning the insurance laws of this State for the assistance and information of the public.

(Added by Stats. 1941, Ch. 379.)

12921.6. (a) (1) If no fee is designated in this code for the review of filings required to be made pursuant to this code, the commissioner may establish a fee to permit the department to recover the actual cost of review of those filings. The fee so established shall not be increased by more than twenty-five dollars (\$25), unless the increase is made by law.

(2) If this code designates a fee for any required filing, which fee the commissioner determines to be inadequate to cover the actual cost of review, the commissioner may assess an additional fee pursuant to this section not to exceed 25 percent of the fee designated by the code for the filing.

(3) Any person assessed a fee under this section shall be entitled, upon request, to receive reasonable substantiation from the department for the fee assessed, based upon the cost records of the department.

(4) As used in this section, "filings" means those items which the insurers are required to file with the department or commissioner pursuant to this code.

(b) The fee provided for by this section shall be assessed without regard to the requirements of Section 12978 as to uniformity of increase, but shall be based upon the actual cost to the department for the review of the filing.

(c) As used in this section, "person" means any person or entity subject to examination by the commissioner, or purporting to do insurance business in this state, or in the process of organization with intent to do insurance business in this state, or from whom the commissioner's certificate of authority is required for the transaction of business, or whose certificate of authority is revoked or suspended.

(Added by Stats. 1988, Ch. 855, Sec. 3.)

12921.7. Notwithstanding any other provision of law, the following shall apply to the adoption by the commissioner of any regulation as an emergency regulation pursuant to subdivision (b) of Section 11346.1 of the Government Code.

(a) At least 5 working days prior to submission of the emergency regulation to the Office of Administrative Law, the commissioner shall mail a notice of proposed emergency action to every person, group, or association who had previously filed a request for notice of regulatory actions with the commissioner.

(b) The notice of proposed emergency action shall include the following:

(1) A description of the problem and the necessity for the regulation.

(2) A description of the justification for adoption of the regulation as an emergency regulation.

(3) A copy of the text of the proposed emergency regulation.

(Added by Stats. 1992, Ch. 793, Sec. 1. Effective January 1, 1993.)

12921.8. (a) The commissioner may do the following:

(1) Issue a cease and desist order to a person who has acted in a capacity for which a license, registration, or certificate of authority from the commissioner was required but not possessed.

(2) Issue a cease and desist order to a person who has aided or abetted a person described in paragraph (1).

(3) Impose a monetary penalty, pursuant to an order to show cause, on a person described in paragraph (1) or (2). The monetary penalty shall be the greater of the following:

(A) Five times the amount of money received by the person for acting in the capacity for which the license, registration, or certificate of authority was required but not possessed.

(B) Five thousand dollars (\$5,000) for each day the person acted in the capacity for which the license, registration, or certificate of authority was required but not possessed. In the absence of contrary evidence, it shall be presumed that a person continuously acted in a capacity for which a license, registration, or certificate of authority was required on each day from the date of the earliest such act until the date those acts were discontinued, as proven by the person at a hearing.

(b) A person to whom a cease and desist order or order to show cause has been issued, may, within seven days after service of the order, if a hearing has not already been scheduled by the commissioner, request a hearing by filing a request for the hearing with the commissioner. The hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5

(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all the powers granted therein.

(c) A person who has a hearing pursuant to subdivision (b) shall be entitled to have the proceedings and the order of the commissioner reviewed by means of any remedy provided by the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(Amended by Stats. 2023, Ch. 204, Sec. 17. (AB 1140) Effective January 1, 2024.)

12921.9. (a) A letter or legal opinion signed by the Commissioner or the Chief Counsel of the Department of Insurance that was prepared in response to an inquiry from an insured or other person or entity and that discusses either generally or in connection with a specific fact situation the application of the Insurance Code or regulations promulgated by the commissioner shall be made public. The department may redact the name, address, policy number, and other identifying information regarding a particular insured or other person or entity from the letter or legal opinion when it is made public.

(b) A letter or legal opinion made public pursuant to this section shall not be construed as establishing an agency guideline, criterion, bulletin, manual, instruction, order, standard of general application, rule, or regulation, as those terms are described in Sections 11340.5 and 11342.600 of the Government Code.

(Added by Stats. 2001, Ch. 727, Sec. 16. Effective January 1, 2002.)

12922. The commissioner shall, on or before the first day of August in each year, make a report to the Governor, the Legislature, and to the committees of the Senate and Assembly having jurisdiction over insurance containing a tabular statement and synopsis of the reports which have been filed in the commissioner's office and showing, generally, the condition of the insurance business and interests in this state, and other matters concerning insurance. The report shall also contain a detailed verified statement, of the moneys and fees of office received by the commissioner, and for what purpose.

(Amended by Stats. 2021, Ch. 50, Sec. 248. (AB 378) Effective January 1, 2022.)

12922.5. (a) The commissioner shall convene a working group to identify, assess, and recommend risk transfer market mechanisms that:

(1) Promote investment in natural infrastructure to reduce the risks of climate change related to catastrophic events.

(2) Create incentives for investment in natural infrastructure to reduce risks to communities.

(3) Provide mitigation incentives for private investment in natural lands to lessen exposure and reduce climate risks to public safety, property, utilities, and infrastructure.

(b) To the extent that the working group recommends risk transfer market mechanisms that would be provided by insurance and reinsurance companies, the working group shall recommend mechanisms that:

(1) Are profitable to insurance and reinsurance companies.

(2) If appropriate, apply to communities or regions, rather than individual land parcels.

(c) The policies recommended pursuant to subdivisions (a) and (b) shall include all of the following questions:

(1) What are the California analogies to examples in other countries for creating incentives for investment in natural infrastructure as part of insurance policies that mitigate elemental risks?

(2) Can we use insurance to create incentives for wetland restoration to help defend the coast against storm surge?

(3) Can we create incentives for forests to be managed to reduce the risk of major fires?

(4) Can we reduce the exposure of insurance companies to climate change-related losses through innovative state policies or insurance pricing mechanisms that reward good behavior and charge premiums for actions that increase public safety risks or losses of property or environmental attributes?

(5) Can we develop rating systems based on community risk factors to climate events, and use insurance incentives to make a community more resilient?

(Amended by Stats. 2019, Ch. 497, Sec. 181. (AB 991) Effective January 1, 2020.)

12923. (a) With respect to all classes of insurance (1) to (20), inclusive, as defined in Sections 101 to 120, inclusive, "actuary," for the purposes of this section, means either of the following:

(1) A member of the American Academy of Actuaries.

(2) An individual who has demonstrated by training and experience actuarial competence to the satisfaction of the Insurance Commissioner.

(b) The commissioner shall, after notice and hearing, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, promulgate reasonable rules and regulations which do all of the following:

(1) Describe the documents which must be signed by an actuary when the documents are filed with the commissioner.

(2) Implement paragraph (2) of subdivision (a).

(Amended by Stats. 1985, Ch. 106, Sec. 105.)

12923.5. (a) The Department of Managed Health Care and the Department of Insurance shall maintain a joint senior level working group to ensure clarity for health care consumers about who enforces their patient rights and consistency in the regulations of these departments.

(b) The joint working group shall undertake a review and examination of the Health and Safety Code, the Insurance Code, and the Welfare and Institutions Code as they apply to the Department of Managed Health Care and the Department of Insurance to ensure consistency in consumer protection.

(c) The joint working group shall review and examine all of the following processes in each department:

(1) Grievance and consumer complaint processes, including, but not limited to, outreach, standard complaints, including coverage and medical necessity complaints, independent medical review, and information developed for consumer use.

(2) The processes used to ensure enforcement of the law, including, but not limited to, the medical survey and audit process in the Health and Safety Code and market conduct exams in the Insurance Code.

(3) The processes for regulating the timely payment of claims.

(d) The joint working group shall report its findings to the Insurance Commissioner and the Director of the Department of Managed Health Care for review and approval. The commissioner and the director shall submit the approved final report under signature to the Legislature by January 1 of every year for five years.

(Added by Stats. 2002, Ch. 793, Sec. 2. Effective January 1, 2003.)

12924. (a) The commissioner may issue subpoenas and subpoenas duces tecum for witnesses to attend, testify, and produce documents before the commissioner, on any subject touching insurance business, or in aid of the commissioner's duties. This process may be served, obeyed, and enforced as provided in the Code of Civil Procedure for civil cases. A defaulting witness may, upon application by the commissioner to the superior court, be required by order of the court to appear before the commissioner to testify as the court may order. The court may punish disobedience of its order as a contempt of court.

All the provisions of the Code of Civil Procedure relating to means of production of evidence shall be applicable to any hearing or investigation under this section. The provisions of this subdivision shall not apply to proceedings required by other provisions of this code to be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

(b) A person shall not be excused from testifying or from producing any book, document, or other thing under the person's control upon any hearing or investigation on the ground that the person's testimony, or the book, document, or other thing required, may tend to incriminate the person, or may have a tendency to subject the person to punishment for a felony or misdemeanor; but no individual shall be prosecuted or be subjected to punishment for a felony or misdemeanor for or on account of any act, transaction, matter, or thing concerning which that individual is so compelled, after validly claiming the privilege against self-incrimination, to testify or produce, except for perjury or contempt committed in that testimony.

(Amended by Stats. 2021, Ch. 50, Sec. 249. (AB 378) Effective January 1, 2022.)

12925. The commissioner shall keep and preserve in a permanent form a full record of the commissioner's proceedings, including a concise statement of the condition of each insurer, surplus line broker, or motor club examined as to their condition and affairs.

(Amended by Stats. 2021, Ch. 50, Sec. 250. (AB 378) Effective January 1, 2022.)

12926. The commissioner shall require from every insurer a full compliance with all the provisions of this code.

(Enacted by Stats. 1935, Ch. 145.)

12926.1. (a) In any matter involving compliance with or enforcement of any of the provisions of this code or the other laws of this state involving any entity subject to the jurisdiction or authority of the commissioner, whether the matter is a formal administrative accusation or adjudication, a formal or potential judicial action, or other enforcement tool, and whether or not the matter is settled or prosecuted to resolution, the use of any funds that are imposed as fines or penalties of any sort, or collected by means of settlement, or paid or reserved in any manner as a result of the action, shall be subject to the limitations of this section.

(b) Fines, penalties, fees, and costs shall be deposited in the appropriate fund as provided by law.

(c) Any funds ordered, or allocated by a settlement, to be used for public outreach of any sort, shall be subject to all of the following limitations:

(1) The commissioner's name, likeness, or voice shall not be used in any printed, audio, or visual material that is released either for general distribution or to specific recipients unless a court finds good cause to do so.

(2) The message shall be limited to information relevant to the enforcement action or compliance issues that generated the funds.

(3) The primary focus of any public outreach where the purpose is to advise members of the public of rights affecting pecuniary or property interests shall be to provide specific information needed by the affected persons to obtain or protect those rights.

(4) No funds subject to this subdivision shall be used for general education of the public about insurance issues, except to the extent that the education relates to the type of violations that caused the enforcement or compliance action, and otherwise complies with the limitations of this section.

(5) No funds subject to this subdivision shall be spent or otherwise disposed of unless the expenditure or disposal has been approved by a court of competent jurisdiction.

(d) (1) This section may be enforced by an affected individual with an interest in the matter or a policyholder of an insurer that is a party to a settlement with the department, a city attorney, a district attorney, or the Attorney General, who may bring an action against the commissioner in the superior court in any county where a violation of this section has occurred.

(2) A court may issue injunctions or provide other equitable remedies as appear to the court to be appropriate, and shall order payment by the commissioner from nonpublic funds to a prevailing party who has brought an action under this section of an amount sufficient to compensate the party for all attorneys' fees, costs of litigation, and expenses incurred in bringing and prosecuting the action. For the purposes of this section, "nonpublic funds" does not include assets of an insurer or other party to a settlement that are not part of a valid and voluntary settlement with the department or commissioner.

(e) The commissioner may not increase fees or assessments against insurers in order to comply with this section.

(Added by Stats. 2000, Ch. 1089, Sec. 1. Effective January 1, 2001.)

12926.2. (a) As used in this section, "extraordinary circumstances" means circumstances outside of the control of a licensee that severely and materially affect the licensee's ability to conduct normal business operations.

(b) In determining noncompliance with this code and regulations adopted pursuant to this code, and appropriate penalties, if any, the commissioner may consider evidence concerning the existence of extraordinary circumstances.

(c) A settlement agreement between the commissioner and an insurer may not contain a provision referencing the existence of extraordinary circumstances relative to the subject matter at issue, unless the agreement specifies the precise period of time during which extraordinary circumstances were in existence. Except as provided in subdivision (d), extraordinary circumstances may not be stated to exist for a duration of more than six months.

(d) A settlement agreement may concede the existence of extraordinary circumstances for a period of time exceeding six months if all of the following conditions are met:

(1) The commissioner makes a finding in the agreement that extraordinary circumstances existed for more than six months, and documents in that finding facts supporting that conclusion.

(2) The finding identifies the public purpose justifying the extension of extraordinary circumstances beyond the six-month period.

(3) The beginning and ending date, by month and year, of the commencement and termination of the extraordinary circumstances are identified.

(Added by Stats. 2001, Ch. 727, Sec. 17. Effective January 1, 2002.)

12927. All statements, estimates, percentages, payments, and calculations, required by this code to be made, either by the commissioner or insurers, shall be made on the basis of lawful money of the United States.

(Enacted by Stats. 1935, Ch. 145.)

12928. Whenever the commissioner ascertains that any insurer or any of its agents, officers or employees or any other person is guilty of violating any of the penal provisions of this code or of other laws he shall certify the facts of the violation to the district attorney of the county in which such offense was committed.

(Enacted by Stats. 1935, Ch. 145.)

12928.5. Whenever facts exist by reason of which, under any provision of this code, or other laws the commissioner may suspend, revoke, or deny any license or certificate of authority granted under any provision of this code, if the making or maintenance in force of a contract of insurance is one of the circumstances out of which facts arise, or, if, by reason of the existence of those facts, or in connection therewith a contract of insurance is made or maintained in force, the commissioner may, in lieu of or in addition to, the suspension, revocation, or denial of license or certificate, by order require the immediate cancellation of the contract, unless the contract, by its terms, is not subject to cancellation by the insurer and the insured did not knowingly participate in the wrongful acts.

The commissioner may also notify the insured, stating the reason why the cancellation was required.

In such a case, whether or not the particular contract is thus required to be canceled or is subject to cancellation, the commissioner may order the insurer, insurance agent, broker, solicitor, surplus line broker, or life agent soliciting, negotiating, or effecting the insurance to refrain from effecting insurance upon the property, risk, or insured under the contract for not exceeding five years from the date of the order.

The commissioner may suspend or revoke, or deny an application for, any license or certificate of authority granted under any provision of this code to any applicant or licensee violating any order issued by the commissioner pursuant to this section.

(Amended by Stats. 2021, Ch. 50, Sec. 251. (AB 378) Effective January 1, 2022.)

12928.6. (a) Whenever the commissioner believes, from evidence satisfactory to the commissioner, that a person is violating or about to violate this code or an order or requirement of the commissioner issued or promulgated pursuant to authority expressly granted the commissioner by this code or by law, the commissioner may bring an action in the name of the people of the State of California in the superior court of the State of California against the person to enjoin that person from continuing the violation or engaging therein or doing any act in furtherance thereof. In that action, an order or judgment may be entered awarding the preliminary or final injunction as is proper.

(b) (1) The commissioner may apply to the clerk of the superior court for a judgment to enforce an order requiring a person to pay restitution, a monetary penalty, or reimburse the department for costs incurred by the department in prosecuting a matter. The commissioner's application shall include a certified copy of the order and any associated decision.

(2) Subject to the requirements of paragraph (3), the order and decision shall constitute a sufficient showing to warrant issuance of a judgment in the amount ordered by the commissioner, plus interest. The clerk of the court shall accordingly enter a judgment within five court days.

(3) For an order to qualify for a judgment pursuant to this section, the application shall be accompanied by a declaration given by the legal counsel for the commissioner affirming on information and belief that a petition for mandamus or other legal action for relief from the order has either been denied, or the time for the filing of a petition or action has lapsed.

(4) A judgment entered under this section has the same force and effect as, and is subject to all the laws relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(Amended by Stats. 2022, Ch. 540, Sec. 1. (SB 1040) Effective January 1, 2023.)

12928.7. (a) The commissioner may order a respondent to provide restitution for a loss arising from the respondent's conduct. If the facts and equity permit, with a restitution order, the commissioner may issue an order of rescission enforceable on any person subject to the commissioner's jurisdiction.

(b) A restitution order under this section shall meet all of the following requirements:

(1) The respondent shall be subject to the commissioner's jurisdiction.

(2) The restitution order shall be ancillary to another proceeding authorized by this code in which the commissioner does both of the following:

(A) Determines the respondent violated this code or the standards of conduct applicable to persons acting in the capacity the respondent was acting in or purporting to act in when the loss occurred.

(B) Issues an order imposing a cease and desist order, an order for a monetary penalty, or another sanction with respect to the respondent's conduct.

(3) The restitution order shall cite the factual basis for the restitution order.

(4) The restitution order shall state the persons, or classes of persons, who suffered a loss.

(5) The restitution order shall state the amount to be paid or property to be returned as restitution.

(c) A rescission or restitution order shall be subject to judicial review in the same manner and at the same time as the order to which it is ancillary.

(d) A rescission or restitution order may be judicially enforced in an action brought by the commissioner, the Attorney General, a district attorney, a city attorney, or any person owed restitution pursuant to the order. In that action, the court may award attorney's fees and court costs to a prevailing plaintiff.

(e) This section does not apply to an insurer authorized to transact business in this state or to a placement of insurance with an insurer that was in compliance with Section 1765.1 or 1765.2 at the time of the placement. This section does not apply to a person with respect to acts within the scope of a license issued under Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), or Chapter 6 (commencing with Section 1760) of Part 2 if the person holds that license at the time of those acts or at the time an initial pleading seeking restitution is issued.

(f) The commissioner may order a respondent who is ordered to provide restitution pursuant to this section to reimburse the commissioner for the commissioner's costs of implementing and enforcing this section, including attorney's fees. The commissioner shall not credit any funds received from a respondent towards payment of a monetary penalty until restitution has been tendered to all persons to whom restitution is owed, or to the commissioner on their behalf, as required by a restitution order.

(g) This section does not limit or restrict actions, remedies, or procedures otherwise available to the commissioner, the department, or any person pursuant to an administrative or civil action to enforce any law. It is not a defense in an administrative or civil action that the commissioner did not order a person to pay restitution.

(h) This section does not expand, limit, or otherwise affect the commissioner's authority to seek or to have sought restitution, refunds, or penalties against insurers, except as expressly provided.

(i) As used in this section, "restitution" means the full amount that will compensate each person for their direct and indirect financial and nonfinancial losses proximately caused by the respondent's violations.

(j) Money received by the commissioner for distribution to persons as restitution pursuant to this section or Section 12928.6 or 12976 shall be deposited into the Insurance Fund.

(Added by Stats. 2022, Ch. 540, Sec. 2. (SB 1040) Effective January 1, 2023.)

12929. Irrespective of any provision in any law of this state the commissioner, pursuant to this code, has been and is authorized to correct: by amendment, by partial deletion, or by partial addition, any record, finding, determination, order, rule, or regulation made by the commissioner upon becoming satisfied that it is fair, just, and equitable to make the correction and that any record, finding, determination, order, rule, or regulation would have included the correction except for mistake, clerical error, inadvertence, surprise, or excusable neglect.

The correction shall only be made within a period of six months following the original action.

When the facts are within the commissioner's personal knowledge, the commissioner may, upon the commissioner's own motion and ex parte, enter an order making the correction.

Otherwise the commissioner shall enter an order of correction only after receipt and consideration of a written petition of a person described in Section 12923 or an employee of the Department of Insurance, accompanied in either case by a sworn affidavit of the facts constituting the mistake, clerical error, inadvertence, surprise, or excusable neglect relied upon to justify the correction requested. In such case the order may be made ex parte.

In either case the order shall recite the grounds and bases for the correction and shall be promptly given the same distribution, publicity, and circulation as was given the matter being corrected.

If, within 60 days following the making of the order of correction anyone objects thereto in writing, the commissioner shall set the matter for hearing, giving the same notice thereof, if any, as was given to the proceeding which gave rise to the original record, finding, determination, order, rule, or regulation.

(Amended by Stats. 2021, Ch. 50, Sec. 253. (AB 378) Effective January 1, 2022.)

12930. Offenses under this code, or under other laws relating to insurers, shall be prosecuted and tried in all respects as provided in the Penal Code for public offenses. For the purpose of evidence the commissioner shall furnish to any district attorney, without cost to the county, certified copies of any papers or records of the office of the commissioner.

(Enacted by Stats. 1935, Ch. 145.)

12931. (a) Service of legal process, notices, or other papers described in or referred to by Section 1452, 1605, 1610, 1612, 11104, or 11105 may be made upon the commissioner in the instances enumerated in this section and under the circumstances prescribed in this section by delivering to the commissioner, the commissioner's deputy, or the commissioner's designated agent for service of process two copies thereof for each person or party defendant so served accompanied by payment of a substituted service fee as determined pursuant to Section 12978 for each person or party, and by complying with the other provisions of this section.

(b) The situations under which such service may be so made and the circumstances under which these provisions apply are:

(1) Where for any reason the person desiring to have service so made elects to serve the commissioner instead of the attorney in fact, as stipulated pursuant to Section 1323, of a reciprocal or interinsurance exchange, domestic, foreign, admitted, or nonadmitted.

(2) Where service is to be made on an admitted foreign or alien insurer, when service cannot be made on the principal statutory agent of such insurer duly appointed pursuant to Article 3 (commencing with Section 1600) of Chapter 4 of Part 2 of Division 1 for reasons specified in Section 1604 or otherwise recognized by law.

(3) In actions against nonadmitted insurers, including nonadmitted fraternal benefit societies and reciprocals, under the circumstances described in Article 4 (commencing with Section 1610) of Chapter 4 of Part 2 of Division 1. This provision shall not apply to actions brought under insurance policies or certificates issued by nonadmitted insurers placed by surplus line brokers or special lines surplus line brokers where such insurance contract names a resident of this state as agent for service of process.

(4) In actions involving admitted and formerly admitted fraternal benefit societies as described in Section 11104.

(c) Upon receipt of two copies of the process, notice, or papers to be served and the fee above prescribed, the commissioner shall promptly mail one of the copies by certified mail (or by registered mail if it is addressed to an area outside of the United States where certified mail service is not available) to the defendant or person to be served at the last principal place of business of the defendant or person to be served, known to the commissioner by the commissioner's official records in the case of a licensee; otherwise, in the case of a nonadmitted insurer, to its last principal place of business known to the commissioner from national directories or reference books or other reliable information available in the commissioner's office. The commissioner shall keep a record of all services made upon the commissioner pursuant to this section. The other copy of the process, notice, or papers shall be retained among the commissioner's official public records for a period not to exceed two years, absent special circumstances which in the commissioner's judgment compel longer retention.

(d) Service made in the manner provided for in this section is valid and sufficient and gives jurisdiction over the person of a nonadmitted or unauthorized defendant, provided notice of such service and a copy of the process, notice, or papers being served are sent within 10 days thereafter by certified mail (or by registered mail if it is addressed to an area outside of the United States where certified mail service is not available) by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the receipt or the receipt of defendant's agent for such copy, showing the name of the sender and the name and address of the addressee-defendant thereon, and the affidavit of plaintiff or plaintiff's attorney showing compliance with this section, are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within further time as the court may allow.

In case of service made pursuant to this section upon a licensee of the commissioner required by law to keep the licensee's current business address or that of its agent for service of process on file with the commissioner, the service shall be valid if the commissioner mailed, postage prepaid, a copy of the process, notice, or papers to the defendant or licensee intended to be served to the licensee's current address as shown by the commissioner's records, or, in the case of an insurer, to its manager, president, or secretary, and an affidavit of compliance by plaintiff or plaintiff's attorney at law is made and filed at the place and within the time mentioned in this subdivision.

(e) A plaintiff or complainant shall not be entitled to a judgment by default in any action, suit, or proceeding in which service of process is effected in the manner provided in this section until the expiration of 30 days from the date on which the affidavit of compliance is filed.

(f) This section does not limit or abridge the right to serve any process, notice, papers, or demand upon any insurer in any other manner now or hereafter permitted by law.

(Amended by Stats. 2024, Ch. 444, Sec. 8. (SB 577) Effective January 1, 2025.)

12935. (a) The commissioner, by January 1, 1997, shall develop and make available to the general public, in the two most common non-English languages spoken in the state, which are Spanish and Vietnamese, informational sheets that provide a general explanation in those languages, of the terms most commonly used in passenger automobile and pickup truck liability insurance policies.

(b) These informational sheets are intended to provide only the general explanation of these insurance terms, and in the case of a dispute between an insurer and an insured, the policy as written in English will prevail. The development of informational sheets or the use of these informational sheets by insureds, insurers, agents, brokers, or the state shall not be interpreted as creating a duty or obligation to provide additional information or insurance policies in a non-English language.

(c) An informational sheet developed by the commissioner shall include a disclaimer, prominently displayed in 24-point type print at the beginning of the informational sheet, in the non-English language, that contains all of the following information:

(1) The informational sheet is for informational purposes only.

(2) The actual terms of an insurance policy prevail over the information provided in the informational sheet.

(3) In the case of a dispute, the insurance policy is controlling and a court will rely on the policy as it is written in English to resolve the dispute.

(4) The policy is the sole source of rights and obligations of the insurer and the insured.

(5) The information contained in the informational sheets does not create rights or obligations on the part of the insured, the insurer, the agent, the broker, or the state.

(6) The informational sheet is not intended to be a substitute for the actual policy written in English.

(d) The commissioner may develop informational sheets regarding other forms of insurance.

(e) The commissioner may develop informational sheets in foreign languages, other than Spanish and Vietnamese, as needed.

(f) Once developed by the commissioner, he or she may produce public service announcements concerning the availability of these informational sheets, to be utilized in those communities that the commissioner deems would benefit from the information.

(g) This section does not prevent an insurer or licensee from advertising an insurance policy, or the availability of a foreign language informational sheet, or the availability of a translation of an insurance policy, in a language other than English if the advertisement clearly states that the insurance policy is only available in English. However, in the case of a dispute, the insurance policy is controlling and any of those advertisements for insurance policies, informational sheets, or translations shall not be construed to modify or change the insurance policy.

(Added by Stats. 1995, Ch. 909, Sec. 2. Effective January 1, 1996.)

12936. (a) (1) Escheated funds deposited in the Insurance Fund pursuant to subdivision (a) of Section 1523 of the Code of Civil Procedure shall be transferred to the General Fund on June 30, 1998, to repay the principal and interest on the General Fund loan provided pursuant to Item 0845-001-0001 of the Budget Act of 1996, and such funds are hereby continuously appropriated for that purpose.

(2) If the Director of Finance determines that funds subject to escheat for the 1997–98 fiscal year are insufficient to repay the General Fund loan plus the interest owed, funds subject to escheat in the 1998–99 fiscal year, up to the amount necessary to repay the General Fund loan plus the interest owed, shall be available for expenditure by the commissioner to repay the principal and interest on the General Fund loan. Notwithstanding the loan repayment date specified in Item 0845-001-0001 of the Budget Act of 1996, such a determination by the Director of Finance shall trigger an extension of the loan repayment date to June 30, 1999.

(b) A policyholder who was entitled to a rebate pursuant to settlement or order of the commissioner and who has not received the escheated rebate may submit a claim to the Controller. The Controller shall pay the claim from among the Proposition 103 refunds that have escheated to the state and been deposited in the Unclaimed Property Fund upon verification that the claim is valid.

(Amended by Stats. 1998, Ch. 963, Sec. 3. Effective September 29, 1998.)

12937. (a) Escheated funds deposited in the Insurance Fund pursuant to subdivision (b) of Section 1517 of the Code of Civil Procedure shall be available for expenditure by the commissioner to fund proceedings and to pay expenses on nonassetted estates for which liabilities have been or will be incurred.

(b) A policyholder who was entitled to funds described in subdivision (a) pursuant to an order of distribution and who has not previously received an appropriate distribution may submit a claim to the commissioner. The commissioner shall pay the claim from

the escheated funds deposited in the Insurance Fund pursuant to subdivision (a) upon verification that the claim is valid.

(c) The department shall not be required to conduct outreach programs to attempt to locate policyholders described in subdivision (b).

(Added by Stats. 1996, Ch. 187, Sec. 5. Effective July 19, 1996.)

12938. Notwithstanding any other provision of law, the department shall make available for public inspection and publish on its Internet Web site all of the information described in subdivisions (a) and (b). This information shall be maintained in a current, up-to-date condition. All identifying and privileged information regarding individual policyholders shall be redacted from documents available for public inspection and on the Internet Web site.

(a) All fully executed stipulations, orders, decisions, settlements, or other forms of agreement resolving market conduct examinations, whether the examinations were finalized, terminated, or suspended, that pertain to unfair or deceptive practices in the business of insurance as defined in Section 790.03.

(b) (1) Every adopted report of a market conduct examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the commissioner pursuant to Section 734.1.

(2) The commissioner upon adopting the report shall transmit a copy of the report, either electronically or by certified United States mail, to a representative that the examined insurer designated by that insurer to receive the report, or in the case of an examination of more than one insurer in an insurer group, to a single representative of the group designated to receive the report on behalf of all examined insurers. Within 20 business days after the transmittal, the examined insurer may submit comments to the commissioner relating to the adopted report. The comments shall be in a form and length as provided by regulation.

(3) Twenty business days after the transmittal the commissioner shall publish on the department's Internet Web site the adopted report and any comments submitted by the examined insurer unless a court of competent jurisdiction has stayed the publication of the report.

(c) This section may not be construed to require the disclosure of company workpapers or other company documents discovered during the course of an examination or any preliminary report of the examination, except as otherwise permitted by law.

(Amended by Stats. 2011, Ch. 411, Sec. 58. (AB 1416) Effective January 1, 2012.)